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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HERSY RODGERS,

Plaintiff,

v.

RENO POLICE DEPARTMENT, *et al.*,

Defendants.

Case No. 3:19-CV-00168-RCJ-WGC

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 alleging that the Defendants racially discriminated, wrongfully imprisoned, and unlawfully arrested Plaintiff. On May 21, 2019, the Court granted Plaintiff’s application to proceed *in forma pauperis*, and dismissed the complaint with leave to amend. (ECF No. 4). The Court noted that if the Plaintiff chooses to file an amended complaint curing the deficiencies, he shall do so within thirty days from May 21, 2019. The thirty day period to file an amended complaint has now expired.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of

1 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
2 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
3 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
4 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
5 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
6 local rules).

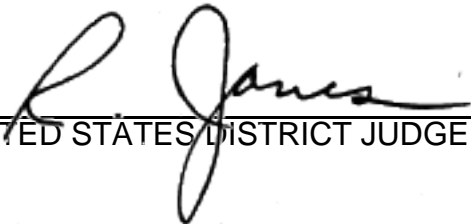
7 In determining whether to dismiss an action for lack of prosecution, failure to obey
8 a court order, or failure to comply with local rules, the court must consider several factors:
9 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
10 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
11 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
12 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
13 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

14 Here, the Court finds that the first two factors, the public's interest in expeditiously
15 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
16 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
17 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
18 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
19 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
20 disposition of cases on their merits—is greatly outweighed by the factors in favor of
21 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
22 the court's order will result in dismissal satisfies the "consideration of alternatives"
23 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
24 F.2d at 1424. The Court's order dismissing the case granted Plaintiff leave to file an
25 amended complaint to cure the deficiencies and expressly stated: "the case is dismissed
26 with leave to amend." (ECF No. 4). Thus, Plaintiff had adequate warning that dismissal
27 would result from his noncompliance with the Court's order to file an amended complaint
28 with the Court within thirty days.

1 IT IS HEREBY ORDERED that action is DISMISSED WITHOUT PREJUDICE
2 based on Plaintiff's failure to file an amended complaint.

3 IT IS FURTHER ORDERED that the Clerk of Court shall close the case.

4 IT IS SO ORDERED dated this 5th day of March, 2020.

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UNITED STATES DISTRICT JUDGE
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